

SENATE BILL NO. 522

INTRODUCED BY J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING ALL SPECIAL INCENTIVES FROM THE PRODUCTION TAXES ON NATURAL GAS AND ALL SPECIAL INCENTIVES EXCEPT THE STRIPPER WELL EXEMPTION FROM THE PRODUCTION TAXES ON OIL; PROVIDING THAT A PORTION OF THE INCREASE IN COLLECTIONS IS TO BE DEPOSITED IN A MONTANA INFRASTRUCTURE REINVESTMENT ACCOUNT TO BE APPROPRIATED FOR CONSTRUCTING AND RECONSTRUCTING INFRASTRUCTURE; AMENDING SECTIONS 15-36-303, 15-36-304, AND 15-36-331, MCA; REPEALING SECTION 82-11-118, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-36-303, MCA, is amended to read:

"15-36-303. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of revenue provided for in 2-15-1301.

~~(3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.~~

~~——— (4) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.~~

~~——— (5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil that would not otherwise be recovered. The project must be developed after December 31, 1993.~~

~~(6)~~(3) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means the gross value of the product as determined in 15-36-305.

~~(7) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees deviation from the vertical and a horizontal projection within the common source of supply, as that term is defined by the~~

board, that exceeds 100 feet.

~~(8) "Horizontally completed well" means:~~

~~(a) a well with one or more horizontal drain holes; and~~

~~(b) any other well classified by the board as a horizontally completed well.~~

~~(9) "Incremental production" means:~~

~~(a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of production is in excess of the production decline rate established under the conditions existing before:~~

~~(i) the commencement of the recompletion of a well as a horizontally completed well;~~

~~(ii) expansion of the existing enhanced recovery project; or~~

~~(iii) commencing a new enhanced recovery project; or~~

~~(b) in the case of any project that had no taxable production prior to commencing the enhanced recovery project, all production of oil from the enhanced recovery project.~~

~~(40)(4) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at the wellhead.~~

~~(41) "New enhanced recovery project" means an enhanced recovery project that began development after December 31, 1993.~~

~~(42)(5) "Nonworking interest owner" means any interest owner who does not share in the exploration, development, and operation costs of the lease or unit, except for production taxes.~~

~~(43)(6) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the wellhead.~~

~~(44)(7) "Operator" or "producer" means a person who produces oil or natural gas within this state or who owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil or natural gas is extracted or produced.~~

~~(45) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying as a post-1999 well.~~

~~(46) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.~~

~~(47)(8) "Primary recovery" means the displacement of oil from the earth into the well bore by means~~

1 of the natural pressure of the oil reservoir and includes artificial lift.

2 ~~(18) "Production decline rate" means the projected rate of future oil production, extrapolated by a method~~
3 ~~approved by the board, that must be determined for a project area prior to commencing a new or expanded~~
4 ~~enhanced recovery project or the recompletion of a well as a horizontally completed well. The approved~~
5 ~~production decline rate must be certified in writing to the department by the board. In that certification, the board~~
6 ~~shall identify the project area and shall specify the projected rate of future oil production by calendar year and~~
7 ~~by calendar quarter within each year. The certified rate of future oil production must be used to determine the~~
8 ~~volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).~~

9 ~~(19) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well~~
10 ~~drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally~~
11 ~~completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during~~
12 ~~the 5 years immediately preceding the first month of qualifying production.~~

13 ~~——— (b) Qualifying production does not include oil production from a horizontally recompleted well.~~

14 ~~——— (20) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery~~
15 ~~project, that commenced or was expanded after December 31, 1993, and meets each of the following~~
16 ~~requirements:~~

17 ~~——— (a) The project must be certified as a secondary recovery project to the department by the board. The~~
18 ~~certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.~~

19 ~~——— (b) The property to be affected by the project must be adequately delineated according to the~~
20 ~~specifications required by the board.~~

21 ~~——— (c) The project must involve the application of secondary recovery methods that can reasonably be~~
22 ~~expected to result in an increase, determined by the board to be significant in light of all the facts and~~
23 ~~circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary~~
24 ~~recovery methods include but are not limited to:~~

25 ~~——— (i) the injection of water into the producing formation for the purposes of maintaining pressure in that~~
26 ~~formation or for the purpose of increasing the flow of oil from the producing formation to a producing well bore;~~
27 ~~or~~

28 ~~——— (ii) any other method approved by the board as a secondary recovery method.~~

29 ~~——— (21) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000~~
30 ~~cubic feet of natural gas a day during the calendar year immediately preceding the current year. Production must~~

~~be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.~~

~~———— (22) "Stripper oil" means the oil produced from any well that produces less than 15 barrels a day for the calendar year immediately preceding the current year if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter, there is no stripper tax rate in that quarter. There is no stripper well exemption tax rate if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is more than \$38 a barrel. The average price for a barrel is computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter. Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.~~

~~(23)(9) "Stripper well exemption" means petroleum and other mineral or crude oil produced by a stripper well that produces 3 barrels a day or less.~~

~~(24) "Tertiary recovery project" means an enhanced recovery project, other than a secondary recovery project, using a tertiary recovery method that meets the following requirements:~~

~~———— (a) The project must be certified as a tertiary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.~~

~~———— (b) The property to be affected by the project must be adequately delineated in the certification according to the specifications required by the board.~~

~~———— (c) The project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this part, tertiary recovery methods include but are not limited to:~~

~~———— (i) miscible fluid displacement;~~

~~———— (ii) steam drive injection;~~

~~———— (iii) micellar/emulsion flooding;~~

~~———— (iv) in situ combustion;~~

- ~~_____ (v) polymer augmented water flooding;~~
~~_____ (vi) cyclic steam injection;~~
~~_____ (vii) alkaline or caustic flooding;~~
~~_____ (viii) carbon dioxide water flooding;~~
~~_____ (ix) immiscible carbon dioxide displacement; or~~
~~_____ (x) any other method approved by the board as a tertiary recovery method.~~

~~(25)(10)~~ "Well" or "wells" means a single well or a group of wells in one field or production unit and under the control of one operator or producer.

~~(26)(11)~~ "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who bears any portion of the exploration, development, and operating costs of the well or wells."

Section 2. Section 15-36-304, MCA, is amended to read:

"15-36-304. Production tax rates imposed on oil and natural gas. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production ~~based on the type of well and type of production according to the following schedule~~ at a rate of 14.8% for both working interest owners and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

~~(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the~~

department.

~~(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.~~

~~(5)(3)~~ Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:	<u>12.5%</u>	<u>14.8%</u>
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c)(b) stripper well exemption production	0.5%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%

~~———— (B) post-1999 wells ————— 9% ————— 14.8%~~

~~———— (6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.~~

~~———— (b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.~~

~~———— (ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.~~

~~———— (c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter as determined in subsection (6)(d), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production. Stripper well exemption production is taxed as provided in subsection (5)(e) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$38 a barrel.~~

~~———— (d) For the purposes of subsection (6)(e), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.~~

~~(7)(4) The tax rates imposed under subsections (2) and (5) (3) on working interest owners and nonworking interest owners must be adjusted to include the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131."~~

Section 3. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine

the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(3) (a) For tax year ~~2003~~ 2005 and succeeding tax years, the amount of oil and natural gas production taxes determined under subsection (1)(b) plus the phased-out amount distributed pursuant to 15-36-324(12)(b) as that section read on December 31, 2002, is allocated to each county according to the following schedule:

	2003	2004	2005	2006 and succeeding tax years
Big Horn	45.03%	45.04%	45.04%	45.05%
Blaine	57.56%	57.84%	58.11%	58.39%
Carbon	50.24%	49.59%	48.93%	48.27%
Chouteau	56.67%	57.16%	57.65%	58.14%
Custer	103.63%	92.27%	80.9%	69.53%
Daniels	48.31%	49.15%	49.98%	50.81%
Dawson	56.32%	53.48%	50.64%	47.79%
Fallon	39.89%	40.52%	41.15%	41.78%
Fergus	112.2%	97.86%	83.52%	69.18%
Garfield	54.51%	51.66%	48.81%	45.96%
Glacier	76.56%	70.65%	64.74%	58.83%
Golden Valley	55.5%	56.45%	57.41%	58.37%
Hill	66.97%	66.15%	65.33%	64.51%
Liberty	63.32%	61.53%	59.73%	57.94%
McCone	58.75%	55.81%	52.86%	49.92%
Musselshell	57.06%	54.25%	51.44%	48.64%
Petroleum	67.8%	61.21%	54.62%	48.04%

1	Phillips	53.3% ————— 53.54%	53.78%	54.02%
2	Pondera	104.14% ————— 87.51%	70.89%	54.26%
3	Powder River	64.7% ————— 63.44%	62.17%	60.9%
4	Prairie	38.43% ————— 39.08%	39.73%	40.38%
5	Richland	45.23% ————— 45.97%	46.72%	47.47%
6	Roosevelt	46.75% ————— 46.4%	46.06%	45.71%
7	Rosebud	37.41% ————— 38.05%	38.69%	39.33%
8	Sheridan	46.64% ————— 47.09%	47.54%	47.99%
9	Stillwater	56.05% ————— 55.2%	54.35%	53.51%
10	Sweet Grass	58.23% ————— 59.24%	60.24%	61.24%
11	Teton	53.01% ————— 50.71%	48.4%	46.1%
12	Toole	56.2% ————— 56.67%	57.14%	57.61%
13	Valley	59.82% ————— 57.02%	54.22%	51.43%
14	Wibaux	47.71% ————— 48.19%	48.68%	49.16%
15	Yellowstone	50.69% ————— 49.37%	48.06%	46.74%
16	All other counties	50.15% ————— 50.15%	50.15%	50.15%

17 (b) The oil and natural gas production taxes allocated to each county must be deposited in the state
 18 special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

19 (4) The department shall, in accordance with the provisions of 15-1-501, distribute 37% of the state
 20 portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and
 21 (3) to the Montana infrastructure reinvestment account, as provided in [section 4], and the balance as follows:

22 ——— (a) for the fiscal year ending June 30, 2003, to be distributed as follows:

23 ——— (i) a total of \$400,000 to the coal bed methane protection account established in 76-15-904; and

24 ——— (ii) all remaining proceeds to the state general fund;

25 ~~(b)(a)~~ for the fiscal year beginning July 1, 2003, years through the fiscal year ending June 30, 2011, to
 26 be distributed as follows:

27 (i) 1.23% to the coal bed methane protection account established in 76-15-904;

28 (ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

29 (iii) 2.95% to the orphan share account established in 75-10-743;

30 (iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the

1 purposes of the state tax levy as provided in 20-25-423; and

2 (v) all remaining proceeds to the state general fund;

3 ~~(e)~~(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

4 (i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

5 (ii) 2.95% to the orphan share account established in 75-10-743;

6 (iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the
7 purposes of the state tax levy as provided in 20-25-423; and

8 (iv) all remaining proceeds to the state general fund."

9
10 **NEW SECTION. Section 4. Montana infrastructure reinvestment account.** There is a Montana
11 infrastructure reinvestment account in the state special revenue fund. The money in the fund is subject to
12 appropriation for the construction and reconstruction of infrastructure in Montana.

13
14 **NEW SECTION. Section 5. Codification instruction.** [Section 4] is intended to be codified as an
15 integral part of Title 17, and the provisions of Title 17 apply to [section 4].

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17 **NEW SECTION. Section 6. Repealer.** Section 82-11-118, MCA, is repealed.

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19 **NEW SECTION. Section 7. Effective date.** [This act] is effective January 1, 2006.

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21 **NEW SECTION. Section 8. Applicability.** [This act] applies to tax years beginning after December
22 31, 2005.

23 - END -